

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 24TH APRIL 2007 / 4TH VAISAKHA 1929

Bail Appl..No. 2252 of 2007()

PETITIONER: ACCUSED:

GOPALAKRISHNAN ALIAS RAJAPPAN,
KARIAMKUNNEL HOUSE,BAISONVALLEY P.O,
IDUKKI DISTRICT.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS:STATE & COMPLAINANT:

-
1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM, KOCHI.
 2. THE STATION HOUSE OFFICER,RAJAKKAD
POLICE STATION,IDUKKI DISTRICT.

DIRECTOR GENERAL OF PROSECUTIONS SRI.P.V.THAMPI

THIS BAIL APPLICATION HAVING COME UP FOR ORDERS ON
24/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

B.A. NO. 2252 OF 2007 B

Dated this the 24th day of April, 2007

O R D E R

This is an application for Bail under Section 439 of the Code of Criminal Procedure, filed by the accused in Crime No. 19 of 2007 of the Rajakkad Police Station.

2. The petitioner is accused of having committed offence under Section 328 of the Indian Penal Code. The petitioner was arrested on 2-4-2007 and he was detained in judicial custody. Bail Application filed by the petitioner before the Court of the Judicial Magistrate of the First Class, Adimaly was dismissed by the order dated 4th April 2007.

3. The prosecution case is that the accused, the father of the defacto complainant, due to his hatred towards his wife Santhamma and with an intention to cause hurt to her, mixed poison in the Ayurvedic medicine kept for the use of Santhamma in the night of 24-1-2007. Santhamma consumed the medicine at about

8.30 A.M. on 25-1-2007. She felt uneasiness. She informed Dr.Baiju who prescribed the medicine. The doctor directed to send the medicine to him. The medicine was taken to the doctor by Ajesh, who is an employee of Biju, son of Santhamma. The doctor consumed a portion of the medicine. The condition of Santhamma became worse and she was taken to the hospital. The doctor also felt uneasiness. He vomited. The doctor was taken to the Taluk Hospital, Adimaly. Though initially he showed symptoms of recovery, later his condition became critical and he was taken to another hospital at Kothamangalam, where he was treated as an inpatient for eight days. Thereafter, the doctor was shifted to Medical Trust Hospital, Ernakulam. He was treated at Medical Trust Hospital for a month. He was all throughout unconscious. Due to financial stringency, the doctor could not continue his treatment there and he was shifted to another hospital at Moovattupuzha. The doctor is continuing treatment there and he continues to be unconscious.

4. The First Information Statement was given by Biju, son of Santhamma and the accused. According to the prosecution, on investigation it was revealed that the accused quarreled with his wife in the night of 24th January 2007 and the accused had mixed poison in the Ayurvedic medicine in the night of 24th January 2007 with an intention to kill his wife Santhamma.

5. Sri.K.Ramakumar, learned counsel for the petitioner submitted that the investigation is practically over and there is no justification for further keeping the accused in jail. He submitted that the accused is a person well known in the locality and he has a permanent abode. There cannot be any apprehension that the accused would flee from justice if he is granted bail. Sri.P.G.Thampi, the learned Director General of Prosecution submitted that the investigation is not over. The doctor is still in coma. The statement of the doctor is not taken. There are other witnesses to be questioned. If bail is granted to the petitioner, there is every likelihood that he would intimidate and influence the witnesses.

It would seriously affect the smooth investigation of the case.

6. The Case Diary was produced by before me. I have perused the Case Diary. I am not expressing any view in the matter since it would cause prejudice to the accused. I am satisfied that it would not be proper and safe to release the accused on bail at present. The submission made by the learned Director General of Prosecution deserves to be accepted, in the facts and circumstances of the case.

7. The petitioner has produced copy of the lawyer's notice dated 7-2-2007 issued on behalf of Santhamma to the Printer and Publisher as well the Chief Editor of Kerala Kaumudi Daily. In the said notice, it is stated that the newspaper reported that Santhamma had attempted to commit suicide several times and the consumption of medicine mixed with poison was another attempt to commit suicide. It is stated in the notice thus: "My client is a respectable lady living a peaceful life with her husband and children and has

:: 5 ::

absolutely no reason to think of anything like what is attributed to her in the news item." Compensation is claimed in the notice and it is stated that the news item has caused "intense damage to the reputation and fair name" of Santhamma. As regards the incident, it is stated in the notice thus: "That there was nothing unusual or suspicious about the whole incident which appears to have occurred on account of the negligence at some level or some ill-motivation in some quarter." The notice would unmistakably indicate that according to Santhamma, she consumed the medicine in question without knowing that poison was mixed therein and that she never attempted to commit suicide.

On a consideration of the facts and circumstances of the case, I am not inclined to grant bail to the petitioner at this stage. The Bail Application is, accordingly, dismissed

(K. T. SANKARAN)
Judge

ahz/